

Senate Bill 349

By: Senators Wiles of the 37th, Hill of the 32nd, Stoner of the 6th, Rogers of the 21st,
Douglas of the 17th and others

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 42-5-50 of the Official Code of Georgia Annotated, relating to transmittal of information on convicted persons and place of detention, so as to provide that after a convicted person has remained in custody of the local jail for a period of 90 days after a request for local custody has been filed on behalf of such person, the sheriff through the prosecuting attorney may petition the sentencing court for a hearing to determine whether such convicted person should be transferred to the custody of the commissioner of corrections; to provide for notice to the attorney of record for the convicted person; to provide for certain matters to be considered by the court; to provide that the court order shall specify the conditions of continued incarceration of the convicted person; to provide under certain conditions for transfer of the convicted person to the custody of the commissioner of corrections; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 42-5-50 of the Official Code of Georgia Annotated, relating to transmittal of information on convicted persons and place of detention, is amended by revising subsection (c) as follows:

"(c)(1) In the event that the attorney for the convicted person shall file a written request with the court setting forth that the presence of the convicted person is required within the county of the conviction, or incarceration, in order to prepare and prosecute properly the appeal of the conviction, the convicted person shall not be transferred to the correctional institution as provided in subsection (b) of this Code section. In such event, except as otherwise provided in paragraph (2) of this subsection, the convicted person shall remain in the custody of the local jail or lockup until all appeals of the conviction shall be disposed of or until the attorney of record for ~~the~~ such convicted person shall file with the trial court an affidavit setting forth that the presence of ~~the~~ such convicted person

1 is no longer required within the county in which the conviction occurred, or in which ~~the~~
2 such convicted person is incarcerated, whichever event shall first occur.

3 (2) After a convicted person has remained in custody of the local jail or lockup for a
4 period of 90 days after a request for local custody has been filed on behalf of such person
5 as provided in paragraph (1) of this subsection, the sheriff through the prosecuting
6 attorney may petition the sentencing court for a hearing to determine whether such
7 convicted person should be transferred to the custody of the commissioner of corrections.
8 Notice of such petition for hearing shall be provided to the attorney of record for such
9 convicted person and the commissioner of the Georgia Department of Corrections by
10 certified mail or statutory overnight delivery. The court shall consider the merits of the
11 appeal, the available space in the local jail, whether any problems or dangers would result
12 from the presence of such convicted person in the local jail, and any other factors raised
13 by the sheriff or the attorney of record for such convicted person. The order of the court
14 shall specify whether such convicted person shall be transferred to the custody of the
15 commissioner of corrections, remain in the local jail for an additional specified period of
16 time, or remain in the local jail until all appeals of the conviction shall be disposed of, or
17 the attorney of record for such convicted person shall file with the trial court an affidavit
18 setting forth that the presence of such convicted person is no longer required within the
19 county in which the conviction occurred, or in which such convicted person is
20 incarcerated, whichever of the latter two events shall first occur. If the court's order
21 specifies that such convicted person shall be transferred to the custody of the
22 commissioner of corrections, such convicted person shall be processed, assigned, and
23 transferred as provided in subsections (a) and (b) of this Code section."

24 SECTION 2.

25 All laws and parts of laws in conflict with this Act are repealed.